

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 65565-M of 2006

Date of decision : September 25, 2007

Rahul

..... Petitioner

versus

State of Haryana

..... Respondent

Present: Mr. Ajay Kansal, Advocate for the petitioner.
Mr. Vikas Chaudhary, AAG, Haryana.

S.S. SARON, J. (ORAL)

Heard learned counsel for the parties.

The petitioner seeks pre-arrest bail in case registered against him under Section 304 IPC. At the time of motion hearing, interim bail was granted vide order dated 3.11.2006. It was stated on behalf of the petitioner that Sonu son of Jaswant had been named as one of the accused. However, the petitioner whose name is Rahul son of Chander Bhan is sought to be arrested. The case of the prosecution is that father of the petitioner was Jaswant who died and the mother contracted KERAWA with Chander Bhan and therefore, the petitioner who is also called Sonu is the real accused. Learned counsel appearing for the petitioner while relying on the ration card (Annexure P-1) and death certificate of Asha Rani (Annexure P-2) has pleaded that the mother of the petitioner had died and his father is still alive, therefore, the petitioner in fact is not the accused. There was apparently a dispute as to who is the real accused in the case and there was confusion in this regard.

On 13.08.2007 when the case was taken up, it was submitted on behalf of the petitioner that during the examination of Mani Ram (Complainant) son of Ishwar Singh before the learned trial Court on 21.05.2007, the

prosecution submitted an application to summon Rahul @ Sonu son of Chander Bhan to stand trial with the other co-accused in terms of Section 319 Cr.P.C. A perusal of the statement of Mani Ram recorded before the trial Court on 21.05.2007 showed that in his cross-examination, he had inter alia stated that he came to know that Sonu is also known as Rahul and the name of his father is Chander Bhan. It is also stated that all the accused except Rahul @ Sonu son of Chander Bhan were not challaned by the police. Besides, Mani Ram had given the name of Sonu to the police in his statement, however, he did not tell the police about Sonu who is also known as Rahul son of Chander Bhan as they were not aware of it. In reply to a suggestion, it was denied that Sonu @ Rahul son of Chander Bhan had no connection with the family affairs of Rajesh. Learned Public Prosecutor submitted an application in terms of Section 319 CrPC for summoning Sonu @ Rahul son of Chander Bhan. Therefore, the petitioner who is Rahul son of Chander Bhan may not be the accused in this case.

Learned counsel appearing for the State on instruction from ASI Tara Singh, Police Station Hansi has submitted that the petitioner has joined the investigation on 18.11.2006 and his custody is not necessary for the purposes of investigation.

Keeping in view the aforesaid facts and circumstances and also the fact that it is debatable as to who is the real Rahul son of Chander Bhan, it would be just and expedient to confirm the interim bail granted to the petitioner.

Consequently, Criminal Miscellaneous petition is allowed. The interim bail granted to the petitioner on 3.11.2006 is made absolute subject to the provisions of Section 438 Cr.P.C.

September 25, 2007
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(S.S. SARON)
JUDGE